

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

24.934 ACRES OF LAND, MORE OR
LESS, SITUATE IN HIDALGO COUNTY,
STATE OF TEXAS; AND UNITED
IRRIGATION DISTRICT, ET. AL.

Defendants.

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CASE NO. 7:20-CV-393

**PLAINTIFF’S UNOPPOSED MOTION FOR A CONTINUANCE OF THE JOINT
DISCOVERY/CASE MANAGEMENT PLAN AND THE INITIAL PRETRIAL AND
SCHEDULING CONFERENCE PURSUANT TO FED. R. CIV. P. 26(f)**

The United States, through the Assistant United States Attorney, N. Joseph Unruh, respectfully moves for a continuance of the filing of a Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference scheduled for February 3, 2021.

BACKGROUND

The United States commenced this case on December 3, 2020 by filing the Declaration of Taking, which sought to acquire fee simple interest in property identified as Tract RGV-MCS-2108.¹ On December 10, 2020, the United States deposited \$100,000.00 in the registry of the Court as estimated just compensation. Upon deposit of the estimated just compensation, title to the tract identified as RGV-MCS-2108 vested in the name of the United States by operation of law.²

¹ Dkt. No. 2.

² Upon the filing of the Declaration of Taking and depositing the estimated compensation in the Registry of the Court, the following events occur by operation of law: “1 title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation.” 40 U.S.C. § 3114(b); *see E. Tennessee Nat. Gas. Co. v. Sage*, 361 F.3d 808, 825 (4th Cir. 2004) (in a Declaration of Taking Act case, “[t]itle and the right to possession vest in the government immediately upon the filing of a declaration and the requisite deposit.”).

REQUEST FOR RELIEF

The United States requests that the Court continue the filing of the Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference as it will not prejudice any party of this case. Rather, the United States believes the continuance sought herein will preserve judicial and party resources based on the following reasons:

1. This is a federal land condemnation action seeking to acquire property in order “to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.”³
2. On January 20, 2021, President Joseph R. Biden, Jr., executed a Presidential Proclamation, terminating the national emergency at the Southern Border Wall and directing “a careful review of all resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”⁴
3. The plan for the redirection of funds concerning the southern border wall is expected to be developed within 60 days from the date of the proclamation.⁵
4. No action other than service of process/notice will continue at this time until the position of the United States is determined.
5. The United States will continue to diligently serve all named Defendants pursuant to Rules 4 and 71.1 of the Federal Rules of Civil Procedure.

³ Dkt. No. 2, Schedule B.

⁴ WHITE HOUSE, Proclamation on the Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction (January 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

⁵ *Id.*

Based on the foregoing, the United States requests that the Court grant this motion and enter an order continuing the filing of the Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference for at least 60 days.

CERTIFICATE OF CONFERENCE

On January 21-22, 2021, the undersigned counsel contacted Glenn Jarvis, counsel for United Irrigation District and Dylbia Jefferies Vega, counsel for Cameron County, who advised they were unopposed to the instant motion.

Respectfully submitted,

RYAN K. PATRICK
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CERTIFICATE OF SERVICE

I, N. Joseph Unruh, Assistant United States Attorney for the Southern District of Texas, hereby certify that on this 22nd day of January 2021, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

s/ N. Joseph Unruh
N. JOSEPH UNRUH
Assistant United States Attorney